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13-183
8 January 1963

IMPACT OF VIRGINIA INCOME TAX ON NONRESIDENTS WHO WORK IN VIRGINIA

1. An amendment to the Virginia income tax law, approved 31 March 1962, repeals as of 1 January 1963, the provision of the tax law which relieved the nonresident "... who had no actual place of abode in this State at any time throughout the taxable year..." from filing a return "...if his only income from sources within this State was from salaries and wages and such salaries and wages were subject to income taxation by the state of his residence under a net income tax law substantially similar in principle to..." the Virginia law. (The repealing provision is the last sentence of Title 58-104, in the 1962 Cumulative Supplement to Volume 8 of the Code of Virginia. The provision repealed is the last paragraph of the same Section, as set forth in the 1959 Replacement Volume of Volume 8 of the Virginia Code.) Virginia considered the Maryland and District of Columbia laws similar in principle to the Virginia law, thus relieving commuters from those jurisdictions from the Virginia requirement. Since the basic provision of the Virginia tax law itself (Section 58-101), imposes an income tax on the income of persons not residents of Virginia, derived "...from every business, trade, profession or occupation carried on in..." Virginia, the effect of the repeal is to subject to the Virginia taxation the

(EXEMPTED PROPERTY FILE *Gen. Law*)

Virginia-earned income of nonresidents who commute to Virginia to their place of employment.

2. In the case of the typical individual affected by this statute, that is, the Virginia nonresident whose only income is from wages and salaries earned within the state, a credit may be taken against his Virginia tax, in the amount of the tax paid by him to his state of residence (or the District of Columbia) on the income earned in Virginia and subject to Virginia taxation (Title 58-104). (However, see in the succeeding paragraph severe limitations on his right to credit the amount of his home-state tax.) Thus, the Virginia nonresident pays taxes at the higher of the two rates applicable to him, the rate in Virginia or the rate in his state (or the District of Columbia) of residence.

3. The nonresident may credit his home-state tax only if he itemizes the deductions allowable under the Virginia law, rather than take the standard (percentage) deduction. Also, the nonresident may not file a joint return unless his spouse is also subject to Virginia taxation.

4. Because of The Soldiers and Sailors' Civil Relief Act, the Virginia nonresident tax does not apply to the military pay of military personnel residing in Maryland or the District of Columbia who work in

Virginia.

5. It is believed that Presidential appointees are not exempt from the nonresident Virginia tax.

6. Following is a schedule which would indicate the impact of the Virginia nonresident tax on persons at various Government salary levels who work in Virginia but live in Maryland or the District of Columbia. The GS-7 computation assumes a taxpayer who has no dependents. The GS-11 and GS-12 computations assume three dependents. The GS-15, GS-18 and \$25,000 computations assume four dependents. The \$22,000 computation assumes one dependent. Because of the requirement that the typical Virginia nonresident may take a credit in the amount of his local tax only if he itemizes his deductions, rather than take the standard 10 per cent deduction, the computations assume a number of somewhat typical items as itemized deductions (coming to approximately 12 per cent of the adjusted gross income). The impact of the Virginia nonresident tax, thus, is that in each of the situations set forth in the schedule, the Virginia nonresident will pay to Virginia an amount equal to the difference between the Virginia tax and the tax of Maryland or the District of Columbia payable on his Virginia-earned income. The schedule is attached.

Attachment

Pay Grade	Virginia Nonresident Tax	Maryland Resident Tax	District of Columbia Resident Tax
GS-7 (\$5,540)	\$ 86.40	\$ 122.40	\$ 97.00
GS-11 (\$8,045)	110.25	116.25	101.88
GS-12 (\$9,475)	166.75	154.05	135.05
GS-15 (\$14,565)	380.50	264.45	254.45
GS-18 (\$20,000)	620.00	408.00	418.50
\$22,000	738.00	532.80	544.40
\$25,000	840.00	540.00	590.00

The assumptions on which the above computations are based are found in paragraph 6 of the attached explanatory memorandum.

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Remarks:

Attached is a schedule of tax payable for various salary levels in Maryland and D. C. and includes the Virginia nonresident tax. Whenever the Virginia nonresident tax is larger, the individual in effect is required to pay the amount by which the Virginia tax exceeds his State of residence tax. Certain assumptions had to be made to calculate the tax and these are explained in the attached statement.

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